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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,953	06/26/2001	Jeffrey M. Valentine	BYK-001.01	1675

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EXAMINER

WEAVER, SCOTT LOUIS

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/891,953	Applicant(s) VALENTINE ET AL.	
	Examiner Scott L. Weaver	Art Unit 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 80-123 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 80-123 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's remarks filed 3/4/05 with respect to new claims 80-132 have been considered but are moot in view of the new grounds of rejection provided below, the new grounds of rejection is due to the amendment of the claims previously presented.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 80, 85-87, 91, 96-98, 102, 107-109, 113, and 188-120 are rejected under 35 U.S.C. 102(e) as being anticipated by Rokoff et al. (#6,606,374).

The claims read on Rokoff as follows: as pertains to claims 80, 91, 102, and 113, Rokoff teaches a method and corresponding system for posting and distributing audio data in a text document (HTML document), the audio is identified by a first identifier (control number, ID #, password are given examples via col.7,ln.29-44; col.4,ln.52-57; col.8,ln.39-48) and stored on a system server or in content provider server. The audio content is provided via telephone accessed via telephone network (figure 2, 3). A second identifier (a web page URL which is inherently necessary in order for the initiating device to retrieve the web page) associated with the item description, audio and web page of the item in the server and is sent by an initiating device with display (web enabled computer 40 figure 2) so that the text document (HTML document) may be

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displayed thereon. The retrieved page includes the audio files associated with the HTML document (col.12,ln.3-15; col.10,ln.33-38) to simultaneously play the audio with display of the web page.

With respect to claim 85, the audio is stored on a server with first identifier associated therewith. With respect to claim 86, a notification is provided (col.11,ln.28-33) which includes the second identifier as per claim 87 (the URL is inherently included).

With further respect to claim 102, the system server (fig.2, 50, 58, 60; col.5,ln.48-59) performs the steps corresponding the claims 80 and 91. With further respect to claim 113, the server is a computer thus requiring to read instructions from computer readable memory (files stored in any media are in a computer readable medium) to perform the steps corresponding to each claim as presented.

The rejection of claims 85-87 above also applies to claims 96-98, 107-109, and 118-120.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 81-84, 88-89, 92-95, 99-100, 103-106, 110-111, 114-117, and 121-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rokoff in view of Gosling (EP 0,770,965 A1).

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With respect to claim 81, Rokoff teaches streaming audio which implies but is not explicitly clear that a 'reference' to the audio data is incorporated (embedded) into the HTML document which is associated with first and second identifier, as the audio is streamed upon the document being retrieved with displayable data (col.10,ln.1-32). The system generates a web page which references the audio data and therefore the web page itself could be considered a "reference" as presented in claim 81. However, the "reference" as presented in claim 84 in conjunction with claim 81 implies the 'reference' is to an embedded command or link in the document and is as believed to be the intended meaning for the reference in claim 81. As such Rokoff does not explicitly teach the reference as claimed but does suggest such use for streaming audio to the initiating device.

Gosling teaches embedding commands into documents so as to reference files in compound documents (including HTML documents) so that for example audio data associated with the document can be played to the requestor of an HTML document (abstract; col.2,ln.15-40; col.3,ln.25-35; col.4,ln.1-14; col.14,ln.37-col.15,ln.33) as is specified by claim 81 in conjunction with claim 84 and claims 82 and 83 when reading the reference of claim 81 as an embedded command in a compound document.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to embed the audio of Rokoff into the document by use of a reference as taught by Gosling for the purpose of enabling a user of Rokoff to trigger the audio data associated with the document without being concerned that the appropriate type of handler is resident on their web client (Gosling col.2,ln.20-37).

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The rejection of claims 85-87 above under Rokoff also applies to claims 88-89, 99-100, 110-111, 121-122.

The rejection of claims 81-84 above also applies to claims 92-95, 103-106, 114-117.

6. Claims 90, 101, 112, and 123 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rokoff in view of Frieshtat (#5,945,989).

Rokoff teaches that which is applied to claims 80, 91, 102, and 113 above from which claims 90, 101, 112, and 123 depend respectively.

Rokoff does not teach the first and second identifier are the same as presented in claims 90, 101, 112, and 123.

Frieshtat teaches to record audio in association with the URL of a text document using common identifier of the web page to be updated (col6,ln.36-50; col.9,ln.38-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a common identifier in the system of Rokoff to identify the web page to be updated with audio as taught by Frieshtat for the purpose of enabling the user updating audio to easily navigate through the procedure using the common association of audio to text which is also used by the system in retrieving the data.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

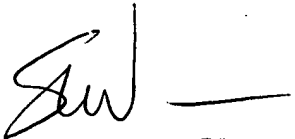
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Weaver whose telephone number is 571-272-7548. The examiner can normally be reached on Monday to Friday 8 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TC 2600 Customer Service can be reached at 571-272-2600.


SCOTT L. WEAVER
PRIMARY EXAMINER
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